

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

SEP 30 2013

Clerk, U.S. District Court
District Of Montana
Missoula

TIMOTHY DRATZ,

CV 13-118-M-DWM-JCL

Petitioner,

vs.

ORDER

ATTORNEY GENERAL OF THE
STATE OF MONTANA,

Respondent.

Petitioner Timothy Dratz seeks a writ of *habeas corpus* under 28 U.S.C. § 2254. This action was filed in the United States District Court for the District of Montana, Missoula Division June 10, 2013. (Doc. 1.) United States Magistrate Judge Jeremiah C. Lynch filed Findings and a Recommendation September 3, 2013. (Doc. 11.) Pursuant to 28 U.S.C. § 636(b)(1), objections to the Findings and Recommendation entered by Judge Lynch were due by September 20, 2013. No objections were filed.

The Court reviews the findings and recommendations of a United States Magistrate Judge for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error is present only if the Court is left with a “definite and firm conviction that a mistake has been

committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

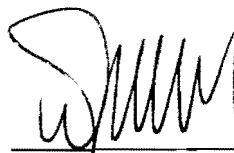
After a review of Judge Lynch’s findings and recommendation, I find no clear error. Mr. Dratz’s petition does not present a violation of federal law. Even if a violation of federal law is present, he must first present his claim to the Montana Supreme Court before seeking a writ of *habeas corpus* before this Court. *See Rose v. Lundy*, 455 U.S. 509, 520 (1982).

Based on the foregoing, IT IS ORDERED that Judge Lynch’s Findings and Recommendation (doc. 11) are ADOPTED IN FULL. Mr. Dratz’s Petition (doc. 1) is DISMISSED without prejudice.

IT IS FURTHER ORDERED a certificate of appealability is DENIED.

IT IS FURTHER ORDERED that the Clerk of Court shall enter by a separate document judgment of dismissal and shall close this case.

DATED this 30th day of September, 2013.



Donald W. Molloy, District Judge
United States District Court